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State of Idaho  
Legislative Services Office  
Management Report

A communication to the Joint Finance-Appropriations Committee

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**OFFICE OF THE SECRETARY OF STATE  
IDAHO CODE COMMISSION  
COMMISSION ON UNIFORM LAWS**

**FY 2005, 2006, and 2007**

**Report IC13007  
Date Issued: March 25, 2008**

*Serving Idaho's Citizen Legislature*

# FOREWORD

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## **PURPOSE OF REPORT**

We evaluated the internal controls over financial operations of the Office of the Secretary of State as part of our effort to evaluate each State agency at least once every three years. This report summarizes the results of our evaluation.

## **SCOPE OF WORK**

The management of the Office is responsible for establishing and maintaining internal controls. We obtained an understanding of the relevant policies and procedures comprising the internal control system. We also determined whether the relevant policies and procedures had actually been placed into operation. Our intent was to indicate where internal controls could be improved in order to help ensure the Office's ability to record, process, summarize, and report financial data accurately.

## **AUDIT AUTHORIZATION**

Reported to the Joint Finance-Appropriations Committee as directed by the Legislative Council of the Idaho Legislature, authorized by Idaho Code, Section 67-429.

## **ASSIGNED STAFF**

Jeff Trotter, Staff Auditor

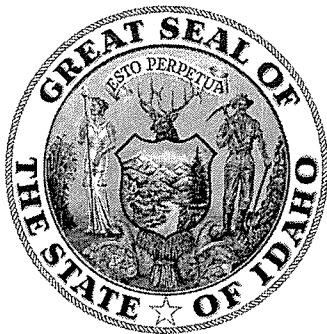
## **ADMINISTRATION AND TECHNICAL REVIEW**

Don H. Berg, CGFM, Manager, Legislative Audits Division  
Eugene Sparks, CPA, CGFM, Managing Auditor

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## EXECUTIVE SUMMARY LEGISLATIVE AUDITS

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### OFFICE OF THE SECRETARY OF STATE IDAHO CODE COMMISSION COMMISSION ON UNIFORM LAWS

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**PURPOSE AND SCOPE** – We performed certain audit procedures to evaluate the effectiveness of the Office of the Secretary of State's internal control design and operation. The limited scope of our procedures does not allow us to give an opinion on the Office's internal control system. Accordingly, we do not express an opinion or ensure that all instances of internal control weaknesses were disclosed. Our purpose was to indicate where internal controls could be strengthened to help ensure accurate financial statements and data. Any findings and recommendations are intended to improve the internal control system to prevent errors, omissions, misrepresentations, or fraud.

**CONCLUSION** – We noted no matters involving the internal control over the Office's financial reporting or its operation that we considered to be material weaknesses. However, our consideration of internal controls would not necessarily disclose all matters considered to be a material weakness.

**FINDINGS AND RECOMMENDATIONS** – There are no findings and recommendations in this report or the prior report.

**AGENCY RESPONSE** – The Office has reviewed the report and is in general agreement with its contents.

**FINANCIAL SUMMARY** – Although an opinion is not given on the financial data presented in this report, one is given on all State funds in the statewide *Comprehensive Annual Financial Report* that includes the financial data presented here.

The Secretary of State receives a General Fund appropriation to perform all constitutional and statutory functions of the office, including: (1) registering the official acts of the Legislature and Governor; (2) administering and certifying elections; (3) maintaining a registry of tort claims, extraditions, deeds, official oaths, and gubernatorial appointments; (4) administering the Sunshine Law; (5) maintaining and operating the centralized Uniform Commercial Code as it relates to State, commercial, and farm product filings; (6) filing various types of business entities in the Commercial Division; and (7) processing applications for notaries, trademarks, and service marks.

The federal fund consists mainly of money from the U.S. Department of Justice in order for the Secretary of State to implement the federal Help America Vote Act of 2002. These funds allow the Office to deal with election reform and to improve election systems and procedures. These funds have been continually appropriated to the Office to carry out the activity of the act.

The Idaho Code Commission, in accordance with Idaho Code, Section 73-213, receives a \$10 filing fee assessed on each civil action filed in district or magistrate courts and a \$10 fee assessed on each party appearing in these civil actions, except the plaintiff. Disbursements are primarily for costs associated with publishing volumes of the Idaho Code.

The Commission on Uniform Laws receives a small General Fund appropriation each year. The appropriation is used for operating expenditures, primarily membership fees and travel.

The information below summarizes the financial activity for the Office of the Secretary of State, the Idaho Code Commission, and the Commission on Uniform Laws, and is for informational purposes only.

**OFFICE OF THE SECRETARY OF STATE – FY 2007 FINANCIAL SUMMARY**

**SECRETARY OF STATE (Agency 130)**

	<u>FY 2007</u>
GENERAL FUND 0001	
Appropriations	<u>\$1,991,920</u>
Total Funds Available	<u>\$1,991,920</u>
Personnel Costs	\$1,544,269
Operating Costs	345,615
Capital Outlay	<u>4,447</u>
Total Disbursements	<u>\$1,894,331</u>
Ending/Reverting Appropriation Balance	<u>\$97,589</u>
FEDERAL FUND 0348 (Democracy Fund)	
Beginning Cash and Investment Balance	\$13,069,064
Receipts	<u>582,239</u>
Total Funds Available	<u>\$13,651,303</u>
Disbursements	<u>5,892,069</u>
Ending Cash and Investment Balance	<u>\$7,759,234</u>

**COMMISSION ON UNIFORM LAWS (Agency 131)**

	<u>FY 2007</u>
GENERAL FUND 0001	
Appropriation	\$28,600
Disbursements	<u>27,555</u>
Ending/Reverting Appropriation Balance	<u>\$1,045</u>

**IDAHO CODE COMMISSION (Agency 133)**

	<u>FY 2007</u>
MISCELLANEOUS REVENUE FUND 0349	
Beginning Cash Balance	\$773,896
Receipts	<u>675,028</u>
Total Funds Available	\$1,448,924
Disbursements	808,658
Transfers Out*	<u>296,368</u>
Ending Cash Balance	<u><u>\$343,898</u></u>

\*According to I.C. § 73-215, at the start of each fiscal year (beginning with fiscal year 2002), money in the Idaho Code Fund (excluding a transfer by appropriation) exceeding the prior year's expenditures by 25% or more shall be transferred to the General Fund.

This report is intended solely for the information and use of the Office of the Secretary of State and the Idaho Legislature and is not intended to be used by anyone other than these specified parties.

We appreciate the cooperation and assistance given to us by the Secretary of State, Ben Ysursa, and his staff.

QUESTIONS CONCERNING THIS DOCUMENT SHOULD BE DIRECTED TO:

Don H. Berg, CGFM, Manager, Legislative Audits Division

Eugene Sparks, CPA, CGFM, Managing Auditor

Report IC13007

# AGENCY RESPONSE

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BEN YSURSA  
SECRETARY OF STATE

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SECRETARY OF STATE

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Uniform Commercial Code Division  
208 334-3191  
Facsimile  
208 334-2847  
Trademarks/Notaries Division  
208 334-2300  
Elections Division  
208 334-2852  
Legislative and Executive Affairs  
208 334-2300  
Fiscal Division  
208 334-5355  
Computer Services  
208 334-5354

February 20, 2008

Don Berg  
Legislative Audits  
Division Manager

Dear Mr. Berg:

Please be advised that I have reviewed the legislative audit of the Secretary of State's office concerning Fiscal Years 2005, 2006 and 2007.

I am extremely pleased with the results of the audit since there were no findings. This office will continue to strive to operate in a smooth and efficient manner, to serve the citizens of Idaho.

I appreciate your cooperation and the professionalism of your staff.

Sincerely,

A handwritten signature in black ink that reads "Ben Ysursa".

BEN YSURSA  
Secretary of State

BY/paw



# APPENDIX

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## HISTORY

During Idaho's territorial period (1863-1890), the functioning Secretary of State was the Secretary of the Territory, appointed by the President of the United States. A large amount of executive authority was vested in the Secretary. In addition to the duties as official secretary and record keeper, the Secretary also handled territorial funds and served as Governor when the Governor was absent. When Idaho gained statehood in 1890, the Office of the Secretary of State was one of the elective offices provided for in the Idaho Constitution. J.J. Pinkham was the first elected Secretary of State and served for two years.

Beginning with the 1947 term, the elected term of office was increased from two to four years. Ben Ysursa, the current Secretary of State, took office on January 6, 2003.

## ORGANIZATION

As illustrated by the organizational chart at the end of this report, the Office is divided into four general divisions: elections; commercial; legislative and executive; and information services.

Reorganization of State government placed record keeping responsibilities for the Idaho Code Commission and the Commission on Uniform Laws under the Office of the Secretary of State. Each of these commissions retains their own organizational structure which operates independently from the Secretary of State's Office, except for budgetary purposes.

The Commission on Uniform Laws consists of four members of the Idaho State Bar and appointed by the Governor to a four-year term. Current commissioners include: Dale Higer, Bill Batt, Rex Blackburn, and Bart Davis.

The Idaho Code Commission consists of three members of the Idaho State Bar who are actively engaged in the practice of law and not holders of any other compensated State office or position. The commissioners are appointed to a six-year term by the Governor from a list submitted by the Board of the Idaho State Bar. Current commissioners include R. Daniel Bowen, Richard F. Goodson, and Thomas Miller. Max M. Sheils, Jr. serves as the executive secretary of the Commission. The Secretary of State is the permanent secretary of the Commission.

## STATUTORY AUTHORITY

### Secretary of State

Article IV of the Idaho Constitution states that the Secretary of State shall be a member of the executive department. It further provides that the office shall be elective and the length of term

## PURPOSE

will be four years. Both the Idaho Constitution and Idaho law imply that the Secretary of State may have a staff to help carry out the assigned duties and responsibilities.

### The Commission on Uniform Laws

In 1919, the Commission on Uniform Laws was created by the Idaho Legislature. The Act establishing the Commission is codified in Idaho Code, Title 67, Chapter 17.

### The Idaho Code Commission

The Idaho Code Commission was created in 1949 by the Idaho Legislature. The Act establishing the Commission is codified as Idaho Code, Title 73, Chapter 2.

### Secretary of State

The purpose of the Office of the Secretary of State is to carry out the many duties and responsibilities assigned by the Idaho Constitution and Idaho law. The Constitution specifically makes the Secretary of State the custodian of the State seal and provides that the Secretary must countersign all grants and permissions. Furthermore, it makes the Secretary of State a member of both the State Land Board and the State Board of Examiners. The Secretary is also a permanent member of the State Board of Canvassers.

In addition to its constitutional duties, Idaho law gives the office other duties and responsibilities. In general, the Secretary of State is the official record keeper of the State, which includes responsibilities for filing, recording, attesting, certifying, and printing certain documents.

Idaho Code, Section 34-201 designates the Secretary of State as the State's chief election officer, with the responsibility to obtain and maintain uniformity in the application, operation, and interpretation of election laws.

The Secretary of State is charged with implementing the federal Help America Vote Act of 2002, dealing with election reform, including management of the "Democracy Fund" established by Idaho Code, Section 67-916. The Democracy Fund was created to provide funding to improve election systems and procedures as required by the Help America Vote Act of 2002. The fund consists of money received from the federal government, the State legislature, and various Idaho counties, and has been continuously appropriated to the Secretary of State's Office for the purpose of paying the expenses to carry out the activities of the act. (Idaho Code, Section 67-916.)

The Commercial Division of the Office of the Secretary of State is responsible for filing and reporting several different types of lien notices on personal property. Under Article 9 of the UCC (Idaho Code, Title 28, Chapter 9), a creditor may file a financing statement to perfect a security interest in collateral in the possession of a debtor. Pursuant to implementing State legislation, a creditor may file a financing statement under the Federal Food Security Act of 1985 to perfect a security interest in the farm products produced by a debtor. Federal agencies, such as the Internal Revenue Service, may file notices of lien in the personal property of corporations and partnerships under the Uniform Federal Lien Registration Act (Idaho Code, Title 45, Chapter 2). Since January 1, 1990, seed suppliers and farm laborers have been able to file notices of liens in crops pursuant to Idaho Code, Title 45, Chapter 3. The Division reports all types of financing statements or notices of lien in response to statutory requests for information. The Division also publishes and distributes to registrants lists of financing statements and notices of liens in crops. State agencies and counties may also file liens for child support, taxes, and medical indigent payment.

The Commercial Division files organizational documents for domestic corporations, limited liability companies, limited partnerships, limited liability partnerships, and applications for certificate of authority for foreign corporations, as well as certain other related documents. All active entities must file an annual report with the Division between July and November each year. The Division responds to massive numbers of requests for information by phone, online, mail, and in-person visits. The Division also files assumed business names. Businesses organized in other states and countries that transact business in Idaho also file with the Division.

The administrative secretary processes applications for trademarks and service marks under Idaho Code, Title 48, Chapter 5. The administrative secretary also issues commissions for notaries public under Idaho Code, Title 51, Chapter 1 and responds to numerous inquiries regarding both functions.

The Secretary of State administers and enforces the Sunshine Initiative Act. This Act provides for lobbyists' registration and reporting requirements, as well as campaign disclosure reporting requirements.

The Secretary of State is charged with many other miscellaneous duties and responsibilities, most of which are related to record keeping.

## FUNDING

### Commission on Uniform Laws

The purpose of this Commission is to draft legislation in areas where uniformity among states appears to be desirable. Members of the Commission attend meetings of the National Conference of Commissioners of Uniform State Laws to draft uniform acts. These drafts are presented to the State of Idaho Legislature for enactment.

### Idaho Code Commission

The purpose of this Commission is to enter into and execute all contracts necessary to keep the volumes of the Idaho Code as current as possible. After each legislative session, Commission members are responsible for codifying, into pamphlet form, those laws enacted or repealed during the legislative session. If a volume of the Idaho Code should become too bulky, the Commission is responsible for authorizing the compilation of additional volumes along with printing specifications.

The Secretary of State receives a General Fund appropriation to perform all constitutional and statutory functions of the office, including (1) registering the official acts of the legislature and Governor; (2) administering and certifying elections; (3) maintaining a registry of tort claims, extraditions, deeds, official oaths, and gubernatorial appointments; (4) administering the Sunshine Law; (5) maintaining and operating the centralized Uniform Commercial Code as it relates to State, commercial, and farm product filings; (6) filing various types of business entities in the Commercial Division; and (7) processing applications for notaries, trademarks, and service marks.

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The Secretary of State's Office and the Commission on Uniform Laws receive funding from General Fund appropriations. These funds are used for program operations.

The Idaho Code Commission receives funds from a \$10 fee levied on each civil action filed in district or magistrate court, including matters involving decedents' estates, whether testate or intestate, including proceedings involving adoption and the appointment of a guardian of the person, of the estate, or both. (Idaho Code, Section 73-213.)

# OFFICE OF THE SECRETARY OF STATE

